

Approved _____

3/13/89
Date

MINUTES OF THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE

The meeting was called to order by SENATOR RICHARD L. BOND at _____
Chairperson

9:00 a.m./~~PM~~ on FRIDAY, MARCH 3, 1989 in room 529-S of the Capitol.

~~All~~ members ~~were~~ present, ~~except~~ Senators Bond, Salisbury, Karr, Kerr, McClure, Moran, Parrish, Reilly, Strick and Yost.

Committee staff present:

- Bill Wolff, Legislative Research
- Bill Edds, Revisor's Office
- Myrta Anderson, Legislative Research
- Louise Bobo, Committee Secretary

Conferees appearing before the committee:

- John Barlow, Chairman of the Board, Johnson County Bank

Chairman Bond called the meeting to order at 9:10 a.m.

The minutes of Wednesday, March 1, 1989 and Thursday, March 2, 1989, were approved on a motion of Senator Kerr. Senator Yost seconded the motion and the motion carried.

SB 331 - John Barlow, Chairman of the Board, Johnson County Bank, appeared in support of this proposal. Mr. Barlow stated that the principal purpose of this bill is to clarify the right of a financial institution to charge an annual fee to customers who arrange in advance to have check overdrafts covered up to a maximum aggregate amount of credit. Customers who make these arrangements would only pay interest on the amount of the overdraft from the date it occurs. The customer would have the option of the overdraft feature, however, SB 331 would allow the bank to make an annual charge to the customer who does choose this service. (attachment 1)

Discussion followed Mr. Barlow's presentation. A committee member inquired about the cost of such a service. Mr. Barlow responded that the annual charge would be \$20 unless the line of credit is used, then interest is assessed on the amount used. Staff queried Mr. Barlow whether it was the intent of the bill to apply to only personal or family transactions. Staff contended that the way the bill is now written, it does apply to sales and finance companies also. A committee member suggested that the language be worded so that the bill would only apply to banks, savings and loan, and credit unions.

Senator Kerr made a conceptual motion to have Staff draft an amendment limiting the wording in the bill to include only supervised financial organizations. Senator Reilly seconded the motion. The motion carried.

Senator Kerr moved that SB 331 be passed out of committee favorably as amended. Senator Reilly seconded the motion. The motion passed.

SB 203 - Senator Yost made a motion to refer this bill to Ways and Means Committee to be rereferred to the Judiciary Committee to be considered with other Health Care Stabilization Bills. Senator Kerr seconded the motion and the motion carried.

The meeting adjourned at 9:53 a.m.

SENATE COMMITTEE

ON

FINANCIAL INSTITUTIONS AND INSURANCE

OBSERVERS
(Please print)

Fri. March 3

DATE	NAME	ADDRESS	REPRESENTING
3/3/89	Chip Wheeler	Topeka	Ks Medical Society
"	JOHN BARLOW	PRAIRIE VILLAGE	JOHNSON COUNTY BANK
"	ALAN GINGREN	PRAIRIE VILLAGE	JOHNSON COUNTY BANK
"	Chuck Stones	Topeka	KS Bankers Assn
"	Kathy Taylor	"	"
"	Richard Mas	"	KTA
"	John M. B. Iden	Topeka	Observer

TESTIMONY OF JOHN BARLOW
SENATE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE
MARCH 3, 1989

SENATE BILL 331

Mr. Chairman and members of the Committee, I am John Barlow, the Chairman of the Board of Johnson County Bank, n.a., which is located in Prairie Village, Kansas. I am appearing in support of Senate Bill 331.

The principal purpose of this bill is to clarify the right of a financial institution to charge an annual fee to customers who arrange in advance to have check overdrafts covered up to a maximum aggregate amount of credit.

As I am sure you are aware, from time to time customers do overdraw their bank accounts, sometimes accidentally and, unfortunately, on some occasions on purpose. When this occurs, there is a significant expense to the bank just in processing the overdraft, not to mention increased risk of loss and the loss of interest to the bank if funds are advanced in excess of the funds which the customer has on deposit. To attempt to partially recover these expenses, banks have developed service charges which are assessed against the customer if an account is overdrawn or if an insufficient funds check is received and the check is returned. These charges vary from institution to institution. In our case, we charge \$15 for each overdraft check, whether it is paid or returned, and an additional daily charge if the overdraft is not paid.

Several years ago, our bank and, I believe, a number of

*Attachment 1
Sen. Fin. Inst. & Ins.
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other banks in Kansas developed what can best be described as a standby overdraft line of credit. Simply put, this is an arrangement whereby a customer files an application for a maximum line of credit with the bank. If the customer writes a check which overdraws his account, the overdraft is immediately converted to a loan and the check is paid. The customer avoids the embarrassment of having his check returned and also avoids the expense of overdraft charges which would otherwise be assessed. For customers having this arrangement, they only pay interest on the amount of the overdraft from the date it occurs until it is paid and have the option of paying the same in installments.

As you might imagine, the creation of this arrangement is not without expense to the bank. A special application for the account must be made, requiring the use of bank personnel. The creditworthiness of the customer must be determined and a maximum line of credit must be established. System safeguards must be put in place to assure that if this particular customer overdraws his account, the normal processes of overdraft will not apply and that the check creating the overdraft will be honored without penalty. Additionally, a special statement is developed and mailed on a regular basis showing the use of the line of credit, if any, the computation of interest, the minimum payment which must be made on the account, and the date when that payment is due.

It should be emphasized that on these accounts, the bank's cost is not a one time cost. Eligibility for overdraft lines of credit and the amount of those lines must be reviewed annually and system safeguards must be regularly checked to make sure that the customer has the overdraft protection to which he is entitled.

Senate Bill 331 makes it clear that financial institutions are authorized to charge an annual fee to customers for the maintenance of this kind of special service, whether or not the service is utilized. I am sure that many banks, including our bank, heretofore concluded that these charges were the equivalent of operation or transaction charges similar to the monthly minimum fees that financial institutions charge on regular checking or money market accounts. A question has now arisen, however, as to whether such a charge is permissible if it involves not only the maintenance of a checking account but also the extension of an overdraft line of credit. Senate Bill 331 would make it clear that an annual charge could be made for such an account if the customer desires this type of service and this type of protection.

We believe that the service is of great advantage to those of our customers who desire to use it, thus avoiding the necessity of them coming in and negotiating small short-term loans if they need funds in limited amounts for short term borrowing. Interestingly enough, we find that many of our

customers apply for and have the account available just for protection and may never use it.

Allowing financial institutions to charge annual fees for accounts having an overdraft line of credit is very similar to allowing annual over-limit fees or cash advance fees for the privilege of using a lender credit card as authorized in §(c) of K.S.A. 16a-2-501 (the section being amended by this bill). Many credit cards carry the privilege of the holder writing a check on an account in which the holder has no funds and then allows for a pay-off, at interest, over a prescribed maximum term. This is essentially what occurs when a financial institution opens an account for a customer with overdraft privileges. We feel it is appropriate that banks also be allowed to recover a part of their costs by being authorized to charge annual fees on these special accounts.

We sincerely hope that the Committee will see fit to recommend this bill for passage. We believe it is of benefit to the consumer-customer, of benefit to merchants and others who receive checks in payment for their goods and services, and that it allows the financial institution to recover its costs for maintaining such a specialized account.

Mr. Chairman, we would be happy to respond to any questions from you or members of the Committee.

John Barlow